

**H. B. 4395**

(By Delegates Skinner, Barrett, Young,  
Tomblin, R. Phillips, Campbell, Fleischauer,  
Barker, Lawrence, Sponaugle and L. Phillips)

[Introduced February 4, 2014; referred to the  
Committee on the Judiciary.]

A BILL to amend the Code of West Virginia, 1931, as amended, by  
adding thereto a new article, designated §46A-6M-1, §46A-6M-2,  
§46A-6M-3 and §46A-6M-4, all relating to creating the Internet  
Service Provider Protection Act; defining terms; making  
legislative findings; designating a contract between an  
Internet service provider and a subscriber to be an adhesion  
contract; and providing remedies.

*Be it enacted by the Legislature of West Virginia:*

That the Code of West Virginia, 1931, as amended, be amended  
by adding thereto a new article, designated §46A-6M-1, §46A-6M-2,  
§46A-6M-3 and §46A-6M-4, all to read as follows:

**ARTICLE 6M. INTERNET SERVICE PROVIDER ACCOUNTABILITY ACT.**

**§46A-6M-1. Short title.**

This article may be known and cited as the "Internet Service  
Provider Accountability Act."

**§46A-6M-2. Definitions.**

1 For purposes of this article:

2 "Adhesion contract" means a standard form contract drafted by  
3 one party with stronger bargaining power and signed by the weaker  
4 party who must adhere to the contract and therefore does not have  
5 the power to negotiate or modify the terms of the contract.

6 "Internet", without limitations, means:

7 (A) The computer network commonly known as the Internet and  
8 any other local, regional or global computer network that is  
9 similar to or is a predecessor or successor of the Internet;

10 (B) Any identifiable site on the Internet or such other  
11 computer network;

12 (C) A website or other similar site on the World Wide Web;

13 (D) A site that is identifiable through a Uniform Resource  
14 Location;

15 (E) A site on a computer network that is owned, operated,  
16 administered or controlled by an Internet service provider;

17 (F) A list server;

18 (G) A newsgroup; or

19 (H) A chat room.

20 "Internet service provider" means any person, for a fee or  
21 other consideration, provides subscribers with access to the  
22 Internet.

23 **§46A-6M-3. Legislative findings.**

24 The Legislature finds that a contract between an Internet

1 service provider and a subscriber is an adhesion contract and, as  
2 such, many of its provisions are highly advantageous to the  
3 provider and leaving the subscriber with few, if any options.  
4 Therefore, in addition to all other remedies available to  
5 subscribers, including civil actions, injunctions and protections  
6 afforded elsewhere in this code, it is the public policy of this  
7 state that, as a matter of law, the remedies as set forth in  
8 section four of this article shall be added to all contracts  
9 between an Internet service provider and a subscriber.

10 **§46A-6M-4. Remedies.**

11 (a) In the event a subscriber loses service for more than an  
12 hour during a twenty-four hour day, the subscriber shall receive a  
13 credit for one day of service for the next billing cycle.

14 (b) In the event the subscriber loses service for more than an  
15 hour during a twenty-four hour period for any two days within a  
16 billing cycle, the subscriber shall receive a credit for one week  
17 of service for the next billing cycle.

18 (c) In the event the subscriber loses service for more than an  
19 hour during a twenty-four hour period for any three days within a  
20 billing cycle, the subscriber shall receive a credit for one month  
21 of service for the next billing cycle.

22 (d) In the event the subscriber has lost service for more than  
23 three separate days in one month, the subscriber may terminate the  
24 service agreement and may not be penalized or owe any additional

1 fees, including, but not limited to, early termination fees.

NOTE: The purpose of this bill is to create the Internet Service Provider Protection Act. The bill defines terms. The bill makes legislative findings. The bill designates a contract between an Internet service provider and a subscriber to be an adhesion contract. The bill provides remedies.

This article is new; therefore, it has been completely underscored.